

DRAFT MEETING MINUTES
SENATE BILL 325 RULEMAKING COMMITTEE
Monday, September 19th 2016
2:00pm to 4:00pm
Metcalf Building
1520 E. Sixth Ave, Helena, MT 59620

PRESENT

Committee Members Present:

Jay Bodner
Bud Clinch
Dave Galt
Adam Haight
Art Hayes
Tammy Johnson
Brenda Lindlief-Hall
Peggy Trenk

Montana Department of Environmental Quality Staff Members Present:

Kirsten Bowers
Rainey Devaney
Myla Kelly
Pete Schade
Timmie Smart
Amy Steinmetz
Mike Suplee

Members of the Public Present:

Alan Olson
Wade Steere (by phone)
Another person called in but no name was given

Ms. Myla Kelly called the meeting to order at 2:07 pm. The meeting commenced with introductions followed by a re-cap of the July 26th meeting. There were 3 demonstrations of natural for arsenic, salinity, and iron. The minutes were approved and will be posted to the DEQ website.

Ms. Kelly moved onto the next agenda item: comments and questions on Part 2 rule language and a guidance document. Ms. Kelly started with the Part 2 rule language and explained a couple of changes made since the workgroup last met. The language was shortened and DEQ added the applicable factors from EPA's approvable variances:

- a. Human caused conditions or sources of pollution prevent the attainment of the use and cannot be remedied or would cause more environmental damage to correct than to leave in place; or
- b. Controls more stringent than those required by sections 301(b) and 306 of the Act would result in substantial and widespread economic and social impact.

Ms. Kelly said that section 4 was clarified:

The basis of the variance must be reviewed by the department every 5 years. If, during the previous 5 years, remedial activities have resulted in improved water quality in the receiving waterbody, recipients of variances will be required to treat the pollutant to concentrations no higher than the ambient upstream condition of the waterbody as characterized for the previous 2 years. The ambient upstream condition must be characterized using any guidance developed by the department. The department will review the water quality status of the waterbody upstream of the discharge, evaluate whether or not the variance recipient's proposed effluent levels for the next 5 years will meet the listed conditions, and issue a solicitation for public comment on variances which have been issued under this rule. The proposal will solicit comments from the public on whether the variances should be: (1) extended without modification, (2) modified and extended, or (3) allowed to expire. Based on the review conclusions and the public comment, the department will draft final findings and conclusions and will initiate rulemaking if it determines that the variances should be extended, with or without modification. Recipients of variances may receive a compliance schedule from the department in order to meet the more stringent requirements of the variance.

Ms. Kelly said this is not finalized, but will be considered a final draft of the rule language.

Ms. Tammy Johnson asked if the most likely use of this section and the variance process will be for municipalities. Mr. Suplee thought yes, that it's limited to these 2 factors. He didn't say it wouldn't work for the private sector, but better for the public sector.

Ms. Peggy Trenk asked if DEQ received any feedback from the public facilities. Mr. Suplee said no, not on this.

Ms. Kelly moved onto the implementation guidance that accompanies this rule. Mr. Suplee started with the flow chart in the guidance document to help applicants decide if a variance is appropriate:

[Implementation Guidance for 75-2-22](#)

Suplee next covered section 2, which helps locate where any remediation is happening, which includes department remedial actions or potentially federal and local activities.

Mr. Suplee moved onto section 2.3 and which factors apply. This was narrowed to the 2 factors (previously mentioned) and seems to be the best fit for this rule, especially since there are state laws that address the other factors. Mr. Suplee said the material contribution part in section 2.4, where if you're not extended the problem further downstream, explains whether a source may or may not be materially contributing. DEQ is more worried about carcinogens than toxic and harmfuls in terms of how much above the standard the change is being made by the point source that's getting the variance.

Mr. Suplee pointed out figure 2-2, a situation where material contribution exists because the exceedance has been extended well downstream due to the presence of the point source. Mr. Suplee said this can all be back calculated if one of these cases arises. But if it's only extending the problem 100 feet downstream, DEQ will look at the specifics of the situation.

Next Mr. Suplee talked about section 3 and dataset minimums. This information is needed in order to characterize water quality upstream of a point source and be able to write the next permit. Mr. Suplee said most of the data listed in this section is straight out of the permit writer's manual.

Mr. Suplee ended with section 4.0 which outlines review of the variance, which he said this group might be involved in. He said that the document reflects the items the workgroup has talked about, but is just a bit more developed than the rule.

Ms. Kelly asked for any questions. Mr. Art Hayes referred to the Tongue River that has numerous dischargers due to coal mines. He wondered if you determine what is natural now or do you go back to before the discharges took place. Mr. Suplee said that it's presumed that the water quality is not meeting standards (Part 2 of the rule), and then DEQ would be characterizing the contaminated condition. Mr. Suplee said this would be whatever it looks like under existing conditions. He explained that these rules are crafted around the legacy conditions, which are mines in a headwater region that are continually causing pollution problems downstream. Mr. Suplee said if it had to do with changes that occurred because of something beyond natural, it points back to the first part of this rule.

Mr. Hayes said that the Tongue meets standards at the head of the Tongue River dam. But downstream the natural salinity picks up from the groundwater and raises it over the standard at Miles City. Mr. Hayes said it cuts through several coal banks and that creeks, like Hanging Woman and Otter Creek, are high in salinity and drain into it. Mr. Hayes wondered how that's accounted for. Mr. Suplee asked if the scenario would be someone seeking a variance that discharges into the stretch between the Tongue River reservoir and Miles City. Mr. Hayes specified the discharge going into the reservoir. Mr. Suplee said that you'd have to first conclude that the lake was above standards, which he believes isn't the case. He went back to the stretch between the Tongue River reservoir and Miles City: it's a standard at the dam, but not by the time it reaches Miles City. Mr. Suplee said if someone wants to put in a discharge here, they would be looking to characterize the water quality in this section.

Ms. Steinmetz added that if someone were looking to discharge into the Tongue River reservoir, a variance is a moot point because standards are being met. Mr. Suplee said the permit writers would have to look if there is a mixing zone, allowable dilution, and other factors; that this law is written for places that have been and are above standards.

Ms. Brenda Lindlief-Hall said one of the issues is where there are dischargers that are potentially impacting downstream water quality. Mr. Suplee said this is addressed through the ordinary permitting process and non-degradation. The permit would be written so the water quality standard doesn't go over beyond their mixing zone. Mr. Suplee said that part 2 is written for long term legacy pollutant conditions where that problem has been in the watershed for some time and has not been resolved.

Ms. Johnson wanted to confirm the process: once this rule is final, it needs to be approved by the BER and then by EPA. Mr. Suplee said that this is correct. Ms. Johnson then asked if DEQ develops a variance that just EPA needs to approve. Mr. Suplee said both EPA and BER need to approve the individual variances and that was the reason the workgroup went with case by case instead of streamlined. He said the guidance document is reviewed by the department; it's not really adopted, just developed and

posted on DEQ's website and any changes can be made if needed, that the document is very flexible. Ms. Kelly pointed out that the rule does point to the guidance document, but that it's not adopted by the BER or EPA.

Ms. Kelly moved to the next agenda item: Part 1 of the rule, which is the demonstration of natural. Ms. Steinmetz started the discussion by clarifying that this equates to part 1 of the statute and that it has to do with the non-anthropogenic part of the statute; nothing to do with the variance. She then moved to the definitions which have not changed from the draft. Ms. Steinmetz explained that DEQ has discussed rulemaking for the first part of the statute, and sees the rule giving authorization to be able to develop a performance based method that's then adopted into rule. Ms. Steinmetz said this is a detailed calculation to come up with a criterion that the BER could adopt. If EPA accepts the process, DEQ would be able to use it to develop criterion and possibly not have to go back to the BER. Ms. Steinmetz reiterated that this would have to be very specific and reproducible in order to come up with the same number every time to make the BER and EPA very comfortable with it. Ms. Steinmetz read the language from Part 1 of the rule:

NEW RULE. *Performance-based Methods for Determination of Site-Specific Water Quality Criteria. (1) Performance-based methods may be developed for parameters as necessary to facilitate the development of site-specific criteria where existing water quality standards are more stringent than the non-anthropogenic condition of the waterbodies.*

Ms. Steinmetz said that unlike the variance piece that has a guidance document; DEQ would develop a circular that would then be adopted into rule. Any changes made to the circular would have to go through the rulemaking process because the circular is part of the rule.

Ms. Steinmetz moved onto (3) of the handout:

Performance-based methods must be sufficiently detailed with suitable safeguards to ensure predictable, repeatable outcomes. Once performance-based methods are adopted by the Board and approved by the US Environmental Protection Agency (EPA), individual site-by-site criteria developed using the methods become effective as rule after the public review process described in (4) and (5) below.

Ms. Steinmetz said that from EPA's perspective, if one of these is sufficient to meet their criteria, DEQ wouldn't need their individual review every time. But DEQ is required to have a public participation process so stakeholders can review the calculation. Ms. Steinmetz said the detail of this public participation is yet to be determined, but the following is known:

- Under EPA's requirements, the Department has to maintain a publicly available, comprehensive list of all the site by site water quality criteria developed using a performance based method.
- Public participation would be required every time the process is used, reading the language from the federal register.

Ms. Trenk asked if that has to go back to the BER each time, when you're writing the rule for each standard. Ms. Steinmetz said that needed to be nailed down from the legal department. Ms. Steinmetz added that even though EPA recommended this approach as an option, none have been approved.

Ms. Trenk wondered when looking at the legal determination, if the statute passed last session was part of the basis for it, and does it give DEQ more authority than previously. Ms. Kristen Bowers from DEQ legal department said the state statute is the basis for DEQ's rulemaking, but the public process is an EPA requirement. Ms. Bowers said that they are not sure if DEQ would have to go through the rulemaking process or just the normal permitting process. But Ms. Bowers believes they need to maintain some sort of docket that has all of the criteria that's been adopted, which could be in a circular or maybe a rule. Ms. Bowers also doesn't think this statute gives the State more authority because they still have to follow this public process. Ms. Trenk said she understood that but that it seems to be very tedious to have to go back to the BER with each number. Ms. Kelly agreed, but said that she thinks approval will be needed for each process for each parameter, but EPA and DEQ's legal team will clear this up for the workgroup. Ms. Bowers pointed out that in comparison the BER doesn't approve every permitting issue that DEQ issues, but they do go through a public process.

37:00 Mr. Adam Haight asked if with the circular, DEQ is anticipating criteria that existed with the nutrient criteria where you're looking within a specific area to make sure the beneficial uses are protected in the circular. Mr. Haight wanted to take into account the sensitive water bodies that may be different than the majority in the state. Mr. Haight said that if they're not going to be able to go back to the BER, they will need those details. Mr. Suplee gave an example of the last time DEQ looked at the elevated levels of iron in the Missouri River breaks, which has naturally high iron, and that flowing through the breaks is the Yellowstone River, which has iron levels that look like western Montana streams. Mr. Suplee said the Yellowstone wouldn't be included in this, just the small streams flowing out of the breaks. He said it would be clear that the change would apply to streams in those regions, but the Yellowstone would still have the normal iron standard. Mr. Haight said the circular will be important in terms of transparency, because he knows a lot of his folks are going to be hesitant to agree to not have these standards go before the BER. Mr. Suplee said the scale over which this will operate could apply to as little as a single stream, to a localized region that has a geological characteristic that's affecting the standards and making it hard to meet them. In that case, Mr. Suplee thinks you might roll in 100 miles of streams.

Ms. Kelly said that DEQ thought it was important to have the rule language be fairly simple, but the bulk will be in the circular, the focus from here for the workgroup.

Mr. Suplee wanted to clarify that the circular will be DEQ-14, not DEQ-13.

Mr. Wade Steer asked how to overcome the anti-backsliding argument when you set new rules and a permit is coming up for renewal and the formula that you're talking about is used. Would you get into the conflict that the previous permit had this limit for iron (for example) and then the formula brings a less stringent standard? Mr. Suplee said this is new territory and a good question, but that this has been done in other states, so Mr. Suplee said they will talk to EPA counterparts about this. Ms. Kelly mentioned the region 8 EPA meeting that was happening in the next 3 days at the Helena office, and that they will be able to talk to folks about this topic.

Ms. Johnson said the language of the statute is fairly unambiguous: the department may not apply a standard for a water quality that is more stringent than non-anthropogenic conditions. Ms. Kelly pointed out the struggle is within the second part of what is the non-anthropogenic condition and how to quantify that.

Ms. Steinmetz encouraged anymore questions by phone or email or any suggestions. She moved onto her presentation of Performance-based Methodology. She started with the circular outline and its 2 parts:

Part A: Methodology

- Data needs (after introduction)
- Demonstration of non-anthropogenic
- Selection of a criterion
- Implementation of the criterion- based on non-anthropogenic condition

Part B: Performance-based methods once they are adopted by the BER, they go into the circular and are adopted into rule.

Ms. Steinmetz thinks in the introduction they should include a flow chart to determine if a site-specific criterion is the best approach. It may be more appropriate to do a use attainability analysis, or a variance approach.

Ms. Steinmetz moved to data needs, saying it's going to have to be really specific and comprehensive.

- Reflect seasonal and temporal variability
- Representative of spatial boundaries of the waterbody of concern- not just one point but stream segments and sampling point below anthropogenic sources.
- Chemical conditions must be fully characterized
- Beneficial uses must be clearly defined- not just the designated uses, but what are the existing uses and what could they be under non-anthropogenic conditions.
- All potential anthropogenic contributions of the pollutant must be described

Ms. Steinmetz reminded the group about the demonstrations of non-anthropogenic examples of modeling, reference streams and mass balance loading, and how they were all explained in the July 26th meeting. Ms. Steinmetz added that they are open to other options.

Next Ms. Steinmetz discussed the selection of a criterion.

- Anthropogenic sources must be subtracted from current condition (through modeling or other approaches) - if there are anthropogenic influences, would have to calculate it on what was historically present before human influence.
- Most sensitive use must be determined
- Most sensitive use must be protected
- Criterion is to be set based on non-anthropogenic conditions (maintaining distribution of data to the best of our ability)

Ms. Steinmetz spoke next about criterion options.

- Could be selected based on the percentile corresponding to the use being protected (e.g. 80th percentile of nitrogen data to protect aquatic life) Ms. Steinmetz gave a simple example of having 10 data points and arrange them from smallest to largest and you're looking at the 80th percentile of the data you would count up to the 8th highest value.
- Could be calculated using an equation factoring in variables affecting the toxicity of the parameter (e.g. copper BLM, dissolved oxygen, etc.)
- Could select two or more percentiles of a distribution to protect the distribution of data (example shown later in the presentation) – not just selecting the number at the top, but also protecting the cleaner water.

Ms. Steinmetz said the last crucial piece of the circular is implementation of the criteria. She explained how most criteria are based on toxicity and how that pollutant affects organisms, and that this is different because we're selecting values from something that is historically present. Ms. Steinmetz asked how we implement these numbers when they're developed in a totally different way.

- How to derive effluent limits based on the criteria
- How to conduct water quality beneficial use assessments based on the criteria
- How nondegradation applies- this protects the buffer of clean water when selecting the criterion that's there. There might not be that buffer.
- Implement "in a manner that provides for the water quality standards for downstream waters to be attained and maintained"- how do we make sure we're still protecting downstream?
- Others—implementation in remedial activities, etc.

Ms. Steinmetz next spoke about criteria selection and used the example of Otter Creek with EC/SAR. This would be specific to the tributaries of Powder River, Tongue River and Rosebud Creek that use this performance-based method. Ms. Steinmetz said this would help outline what data needs to be collected and generated and how to demonstrate the non-anthropogenic condition. Ms. Steinmetz reminded the group of Mr. Erik Makus's July 26th presentation and we know that what is currently there is not significantly different from non-anthropogenic conditions. In this case, Ms. Steinmetz said we don't need to subtract the current conditions and no need for the model to develop the criteria because we have actual data.

Ms. Steinmetz continued to determining most sensitive use.

- In the case of EC and SAR in the tributaries of southeastern Montana, irrigated agriculture is the most sensitive existing use of the water.
- Irrigated agriculture must be protected.

Ms. Steinmetz said the approach 1.5 years ago was selecting somewhere on the upper end of distribution and using the permitting process to protect the use. We want the criterion to protect the use, but how do we do this based on a non-anthropogenic condition?

- Option 1: Determine the level of the pollutant at which the most sensitive use actually occurs and set the criterion there
- Option 2: Select two or more percentiles from the distribution to help maintain the non-anthropogenic condition of the water

Ms. Steinmetz next explained Option 1 and the chart in her slideshow.

- The numbers on the bottom are 30 years of data from the lowest to highest value.
- Any EC or SC under 500 is represented in the first bar and about 1.5% to 2% of the data.
- Anything between 500 and 750 is represented in the second bar.
- The majority of the data points are in the 3,000 range.

Ms. Steinmetz explained when the calculations from the early 2000's were used to develop this criterion the 500 uS/cm was calculated to give 100% crop yield. Recently DEQ and put in data more appropriate for Otter Creek, including soil types, crop yield, alfalfa crops and SC. Ms. Steinmetz said in the Otter Creek watershed 100% crop yield is not realistic. When 90% yield is put in, which is still high but more realistic, DEQ came out with about 1750 uS/cm, which Ms. Steinmetz said is supportive to keep alfalfa growing. And from DEQ's understanding of how often irrigation occurs and the flows seen in this area, it seems to be an appropriate SC.

Ms. Lindlief-Hall asked if when getting here, DEQ looked at downstream beneficial uses on the Tongue River. Ms. Steinmetz said this was specific to Otter Creek.

Ms. Steinmetz went back to quickly summarize Option 1: figure out where that use occurs and set the criterion.

For Option 2, Ms. Steinmetz explained how DEQ took the data they had, which includes all of the grab samples, and sorted them into the time of year when irrigation occurs more often. She said during early January through the end of March the water is cleaner. So DEQ took the 20th and 80th percentile of these values from the watershed, which would be about 1500 and 3000. Ms. Steinmetz said that the difficult part of selecting something like this is figuring out how to implement those 2 numbers. Ms. Steinmetz added if this is done, numbers would be needed to protect the rest of the year.

Mr. Suplee doesn't see how DEQ can implement a double standard like this year round. He can see if you chop the data up into different times of the year, and had one for each. But then you would have a spring and winter irrigation season, and then (an irrigation season) for the rest of the year. Mr. Hayes said that irrigation season can be any time of year, that Otter Creek has the most efficient irrigation system than anywhere in Montana. Mr. Suplee clarified that in July and the creek is trickling and it's at 3000, you could get a high flow event where the water quality comes back down to the left side (of the graph) and that's what they're capturing. Mr. Hayes said that most of the irrigation comes out of the tributaries, not out of the main stem of Otter Creek and that every drop of water that falls in Home Creek is used for irrigation. He said that there is really no irrigation season.

Ms. Johnson asked how water rights play into this and if they're still seasonal. Mr. Hayes said no, they're year round. Ms. Trenk asked if whatever is done, you still can't do anything that affects downstream water quality standards. Ms. Kelly said, yes, the statute's clear about that. Ms. Steinmetz added that this is where the implementation piece of the performance based approach would be so crucial or it won't be accepted by EPA. Ms. Lindlief-Hall said it brings you back to the question of how far downstream?

Mr. Suplee went back to the slide on the Frequency Distribution for option 2. He said that if you're trying to maintain a distribution, he can only see this happen in permitting if you have someone who has a pipe that's discharging water into the stream, they would have to have a constant monitor of the conditions and be able to adapt to the stream water quality as it changes and discharge that. Mr. Suplee said that so far no one's been able to do that. He said the other way to do it is by saying that the water

quality is protective of the use, but over time that distribution's going to move to the lower line (on Ms. Steinmetz graph). Mr. Suplee said this is not a bad thing, but it's not going to look like that anymore, especially if there is significant flowing of water and a steady input. Ms. Steinmetz said that one way to make this work is using a median and a max because it meshes better with what permitting does. Mr. Suplee added if you think about beneficial uses the irrigated agriculture is the most sensitive, the aquatic life in eastern Montana sees huge ranges of salinities. It's all over the place all the time. He doesn't think if you set it at the end (of the graph) and over time the creek becomes less salty, that will eventually have an ill effect on the aquatic life. Ms. Steinmetz said it looks like option 1 is great, but there is the argument that you're collecting something so low in the distribution. Mr. Suplee gave the example of nutrients where they picked the one at the 80th, which is 4,000. It's part of that distribution but tied back to use protection. The workgroup showed that it doesn't have to be at the peak all the time in order for the nutrients to protect the stream. Unless the discharger could automatically adjust its discharge as the creek quality changed, Mr. Suplee doesn't see this working.

Ms. Lindlief-Hall agreed with Mr. Suplee's point, that depending on the use you're going to protect, you can't just look at a chart and decide that you're going to be in the middle. Mr. Suplee said that the nutrient workgroup used the distributional data to inform final criteria, but they kept bringing other information in and they landed on the far-right end. He said the most sensitive use was aquatic life, recreation, and fisheries, but it depends on the parameter and the pollutant.

Ms. Steinmetz went back to the circular outline so the group could talk about their next steps. Ms. Kelly said that DEQ has talked about what the circular will look like and if it will capture every parameter that might be encountered. She said from the outset it might now, but that maybe they can start with a specific parameter. This could flesh out what their methodologies are or will be.

Ms. Kelly asked for feedback on where to start. Ms. Johnson said that the Department has put in substantial work on EC/SAR, iron and arsenic. Mr. Suplee said more on the reference network for iron. Ms. Johnson said that you have the most data for these, and maybe it would be most logical to use these as a starting point. Ms. Kelly agreed, and said that this was DEQ's thought as well. Ms. Johnson said from the previous presentations, it seemed like iron was an area where you could demonstrate there hasn't been a lot of human influence. Mr. Suplee said yes, that there were certain regions that stood out.

Ms. Lindlief-Hall wondered what was meant by data needs. Ms. Steinmetz said any data needed for the demonstration and for the selection of the criterion. She thought maybe there should be 2 sets of data needs; one being data needs for demonstration of non-anthropogenic, and one being data needs for selection of the criterion. Ms. Steinmetz said they need data before they can demonstrate non-anthropogenic but it can be broken out however the workgroup chooses. Mr. Suplee said that starting out on these projects you think things are linear, but then they become intertwined. You might say the most sensitive use for this particular parameter probably is x, but maybe that beneficial use only happens 3 or 6 months a year. Mr. Suplee said that changes your data selections, so things can go back and around.

Mr. Hayes said if you look at Otter Creek 100 years ago, it's a completely different creek now. There are very few trees now and since 2000 there have been a lot of burns. Mr. Hayes said if you look at Otter Creek on USGS sites, it's much lower in EC than it was 10 years ago and it's flowing more because all of the trees aren't taking the water. If you could deduct how much the trees take and the porous geology, which is what's dropping the EC/SAR, you would have to go back further than data collected by the

USGS. Ms. Kelly said the reality is that we don't have the data. Mr. Suplee said that with the model you can simulate it with and without the trees. Ms. Johnson said that could get very complicated in the western part of the state when you look at the fire activity and landscape changes. Mr. Suplee agreed, but thought it could work for the Tongue River area. Ms. Trenk asked why would this matter since none of it was man caused. Mr. Hayes said that man has control of fire suppression. Mr. Suplee spoke of a document called 80 Years of Vegetation Change in the Plains, which has a series of photos. The first is from 1899 to 1910 then one in the 1950's and one today. Mr. Suplee said one take home message from it is that there are way more trees than there used to be.

Ms. Kelly moved the meeting to address the next steps for the circular. Ms. Steinmetz is working on different sources for the methodology piece, and she encouraged more discussion on the performance-based method before going too deep in one direction. Ms. Kelly said she would consult the EPA folks who were coming to Helena for a regional meeting to see if any other states have gone this path and try to gather information from them.

Mr. Haight asked what the initial thoughts are in terms of the circular and using EC/SAR first? Ms. Steinmetz said she's going to try but that it may be so complicated that it ends up being a general performance based method that has to go before the BER each time. To get a performance based method through the BER and EPA, Ms. Steinmetz said they may need to go with something else. Mr. Haight went back to the (legislative) session and how there were many versions of SB325 before it became what it is. He said Senator Keane wanted to do the variance issue and it seemed like the non-anthropogenic portion focused on Otter Creek. Mr. Haight said he goes back and forth, but it seems to be the reason we're all here (referring to starting with EC/SAR). Mr. Hayes added that Otter Creek is a good example of human influence and how it affects water quality, because it's changed a lot.

Ms. Lindlief-Hall asked where DEQ sees the greatest need, if there are particular parameters or areas of the state. Mr. Suplee explained how there is a unit in DEQ that does routine ambient surface water quality monitoring. If they pick up high iron, for example, in a place where it's naturally high, that's above the standard and they're going to put it on the 303d list of streams. Mr. Suplee said this has already happened and there are cases like this, but it doesn't end there. The permit writers take this into consideration when writing permits. There are also implications for getting it off the 303d list because the list is supposed to have streams with problems that need to be fixed. The Department doesn't want those streams on the list. Mr. Suplee sees this as a potential for improvement if applied correctly.

Ms. Rainey DeVaney from DEQ's water planning bureau said that the Yellowstone River and arsenic would be highest on her priority list. Mr. Suplee responded that the Department is actively going after that and it will probably get resolved regardless of this process. Ms. Kelly agreed, saying the work and demonstration of natural and arsenic is far along.

Mr. Steere said he was thinking about this in terms of a pipe network, where you look at (for example) the mainstem of a sanitary sewer line and from there you set limits for each user. He used this as reason to going back to Otter Creek, because it's already been started. Mr. Steer thinks starting with the Yellowstone could promulgate upstream from the Yellowstone and take things backwards until you get more data on other streams.

Ms. Kelly listed the dates of the next meetings:

- Tuesday, October 18th 2pm

- Tuesday, November 15th 2pm

Ms. Steinmetz encouraged any thoughts, suggestions or questions for her before October's meeting. The meeting adjourned at 3:47 pm.

DRAFT